

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

| | | |
|----------------------------|---|------------------------------------|
| GEORGE E. MITCHELL, |) | |
| |) | Civil Action No. 09 - 1577 |
| Plaintiff, |) | Judge Terrence F. McVerry |
| |) | Magistrate Judge Lisa Pupo Lenihan |
| v. |) | Doc. No. 13 |
| |) | |
| TOM CORBETT, Office of the |) | |
| Attorney General, et al., |) | |
| Defendants. |) | |

MEMORANDUM ORDER

The above captioned complaint was received by the Clerk of Court on December 1, 2009 with no filing fee and no motion to proceed *in forma pauperis*. It was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.D of the Local Rules. A motion to proceed *in forma pauperis* was filed on December 7, 2009 and granted on December 10.

On January 5, 2010 the Magistrate Judge filed a Report and Recommendation (Doc. No. 13), recommending that Plaintiff's Complaint be dismissed in accordance with the Prison Litigation Reform Act, 28 U.S.C. § 1915(e)(2)(B)(ii) and/or 28 U.S.C. § 1915A for failure to state a claim upon which relief can be granted under 42 U.S.C. § 1983.

Plaintiff filed a motion requesting an extension of time to file a response to the Report and Recommendation. (Doc. No. 14) The court interpreted this as a motion for an extension to file Objections to the Report and Recommendation and

granted an extension until February 5, 2010. As of this date, no objections have been filed. After review of the pleadings and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 11th day of February, 2010;

IT IS HEREBY ORDERED that Plaintiff's Complaint is **DISMISSED** for failure to state a claim under 42 U.S. C. § 1983.

IT IS FURTHER ORDERED that the Report and Recommendation (Doc. No. 13) of Magistrate Judge Lenihan, dated January 5, 2010, is adopted as the opinion of the court.

IT IS FURTHER ORDERED that the Clerk of Court is to mark this case as **CLOSED**.

s/ Terrence F. McVerry
United States District Judge

cc:

GEORGE E. MITCHELL
HG-2867
SCI Fayette
PO Box 9999
LaBelle, PA 15450